IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 9119 of 2004

Between:
Burri Srinviasa Rao S/o Chandrakanthaiah
Sathupally, Khammam dist

.....
PETITIONER

AND

1 The Depot Manager AP.State Road Transport corporation
Sathupally Depot, Sathupally Khamman dist
2 The Enquiry Officer, Office of the Regional Manager
AP. State Road Transport Corporation, Khammam,
Khamman Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings of the 1st respondent in No.PA/95(172)/2003- SPL, dt. 13/05/2004 as highly illegal, arbitrary, unjust, improper and violative of Principles of Natural justice and consequently set aside the same

Counsel for the Petitioner:MR.BADANA.BHASKARA RAO

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court Made the Following :

ORAL ORDER:

This writ petition is filed questioning the proceedings No. PA/95(172)/2003-SPL, dated 13.05.2004 issued by the first respondent with regard to the removal of the writ petitioner from service as Conductor.

The brief facts that are necessary for the disposal of the writ petition are as follows:

A charge memo was issued to the writ petitioner in respect of cash and ticket irregularities committed by him which were detected on 10.12.2003. Thereafter, regular departmental enquiry was conducted with the following charges:-

CHARGE NO.1:- "For having violated the rule issue of tickets and start, which amounts to mis-conduct in terms of Reg. 28 (vi) (a) of APSRTC Employees (Conduct) Reg. 1963".

CHARGE NO.2:- "For having collected requisite fare of Rs.11/- from a passenger having boarded the bus at Dharmajigudem and found alighting without ticket at Eluru ex-stages 15 to 21 which amounts to mis-conduct in terms of Reg.28 (vi) (a) and (x) of APSRTC Employees (Conduct) Reg. 1963".

CHARGE NO.3:- "For having closed the ticket tray numbers of all Denominations up to stage no.20 (bye pass bridge) without completing the above ticket issue which amounts to mis-conduct in terms of Reg.28 (vi) (a) & (x) of APSRTC

Employees (Conduct) Reg.1963".

The writ petitioner filed an explanation to the charge sheet. The Enquiry Officer, Khammam, conducted a detailed enquiry and submitted a report to the first respondent. Having accepted the report of the Enquiry Officer, the first respondent passed the impugned proceedings removing the petitioner from service. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner vehemently contended that in the enquiry, no opportunity was given to the writ petitioner to cross-examine one witness and the writ petitioner also specifically stated that the Enquiry Officer did not allow him to cross-examine the witness by name G.Venkatarao. Therefore, the second respondent has violated the principles of natural justice in not giving a reasonable opportunity to the writ petitioner to cross-examine the witness and hence, he prays to set aside the impugned proceedings.

On the other hand, the learned standing Counsel appearing for the respondents contended that the writ petitioner himself admitted that he did not want to cross-examine the witness by name G.Venkata Rao.

From a perusal of the Enquiry Report, the petitioner himself signed on a document before the Enquiry Officer stating that he did not want to cross-examine the witness. A reasonable opportunity was given to the writ petitioner to cross-examine the witness but the writ petitioner has not availed the said opportunity in cross-examining the witness. Therefore, the allegation that the writ petitioner was not given any opportunity to cross-examine the witness is devoid of merit and cannot be raised.

It is not a case that the authority, who issued the impugned proceedings, has no jurisdiction at all. So, after considering the material on record, the first respondent has passed the impugned proceedings.

In view of the facts and circumstances of the case, I am of the view that the impugned proceedings passed by the first respondent do not suffer from any legal infirmities so as to call for interference by this Court. Further more, an appeal would lie against the orders of the first respondent within two months from the date of receipt of this order.

Therefore, the petitioner, if so advised can avail such other remedies as are open to him under the law and if the writ petitioner availed any one of such remedies, the competent authority shall pass appropriate orders as per the law uninfluenced by any of the observations made in this writ petition.

With the above observation, the writ petition is disposed of at the stage of admission. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

1 The Depot Manager AP.State Road Transport corporation Sathupally Depot, Sathupally Khamman dist

2 The Enquiry Officer Office of the Regional Manager AP. State road Transport corporation, Khammam, Khamman Dist

3 2 C.D. copies.